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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 09/621,677 | 07/24/2000 | Guy Nathan | 871-85 | 6899 |
| 23117 | 7590 | 11/17/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | SALTARELLI, DOMINIC D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2611 | |

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/621,677

Applicant(s)

NATHAN, GUY

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 4-6 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (5,355,302, of record) [Martin] in view of Moskowitz (5,428,606) and Wilder (5,408,417, of record).

Regarding claim 4, Martin discloses an audiovisual reproduction system (fig. 1, jukebox 13) comprising a central unit (fig. 1, processing circuit 121, col. 5, lines 26-41) controlling a display (fig. 1, visual display 125, col. 5, lines 45-46), memory (fig. 1, ROM 121B, RAM 121C, and storage 93), and a telecommunications modem (fig. 1, modem 19) connected to a distribution network (fig. 1, distribution network 15) controlled by a host server (fig. 1, central management system 11) through an operating system (software program contained in ROM, col. 5, lines 26-31) comprising a library of tools and services (the operating system controls all features and functions of the jukebox, including

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the graphical display, money collection, and song selection, and data collection, fig. 5 and col. 6 line 59 – col. 7 line 17).

Martin fails to disclose the operating system is a multitask operating system, the use of a touch screen, and the operating system comprises means for providing a list including information of downloadable audiovisual records that are not yet available on the audiovisual reproduction system, means for storing in the memory a file regrouping information of said list in a questionnaire, and a module including a procedure for reading in the memory of the file storing said questionnaire, a procedure for enabling a plurality of data representative of audiovisual records to be displayed by the display, said plurality of data being integrated in said questionnaire, a procedure for interpreting answers to said questionnaire and selecting downloadable audiovisual records, said answers corresponding to user actions on the touch screen, and a procedure using selection of downloadable audiovisual records for automatically sending a request to the host server requesting that at least one selected audiovisual record be downloaded.

In an analogous art, Moskowitz teaches a menu driven means for selecting music to download to an audiovisual reproduction device, wherein a list of available content for download is provided (col. 3, lines 5-6), the content is organized into a questionnaire (menu driven selection), and displaying the questionnaire to users, wherein the answers to said questionnaire provided by the user are interpreted to select downloadable audiovisual records (col. 4, lines

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11-24), and automatically sending a request to a host server requesting that at least one selected record be downloaded (col. 4, lines 25-36), for the benefit of providing an intuitive interface that assists users in finding songs that are both of interest to the user and available for download.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclose by Martin to include a menu driven means for selecting records to download to the audiovisual reproduction device, wherein a list of available content for download is provided, the content is organized into a questionnaire, and displaying the questionnaire to users, wherein the answers to said questionnaire provided by the user are interpreted to select downloadable audiovisual records, and automatically sending a request to a host server requesting that at least one selected record be downloaded, as taught by Moskowitz, for the benefit of providing an intuitive interface that assists users in finding songs that are both of interest to the user and available for download.

Martin and Moskowitz fail to disclose the operating system is a multitask operating system and the use of a touch screen.

The official notice taken that it is old and well known to utilize multitask operating systems for controlling dynamic digital systems, as such operating systems are optimized for concurrent execution of multiple tasks, thus enabling systems which are capable of multiple tasks to perform them simultaneously, optimizing the performance and usefulness of the system, was not traversed by the applicant, and is thus taken as an admission of the facts therein.

Therefore, it would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin and Moskowitz to include a multitask operating system, for the benefit of optimizing the performance and usefulness of the audiovisual reproduction system.

In an analogous art, Wilder teaches an audiovisual reproduction system with a touch screen for user selections (col. 4, lines 13-22), providing an intuitive form of user selections from a very flexible interface.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin and Moskowitz to include a touch screen, as taught by Wilder, for the benefit of providing an intuitive form of user selections of requested songs from a very flexible user interface.

Regarding claim 5, Martin, Moskowitz and Wilder disclose the audiovisual reproduction system of claim 4, wherein the reproduction system downloads a list of audiovisual records on the host server through the information distribution network (Martin, song catalog updates, col. 5, lines 8-25 and col. 6, lines 19-30), the host server then downloading the songs in the list prepared by the operator into the memory means of a determined audiovisual reproduction system through the same network (Martin, song library updates, col. 5, lines 8-25 and col. 6, lines 30-34).

Regarding claim 19, Martin, Moskowitz, and Wilder disclose the system of claim 4, wherein said module of the operating system is adapted for updating a file storing user's answers memorized in the memory (Martin, col. 7, lines 13-17), said module updating a user's answers file whenever a user choose though an action on the touch screen a new audiovisual record in said list (Martin, col. 5 line 60 – col. 6 line 7).

Regarding claim 20, Martin, Moskowitz, and Wilder disclose the system of claim 5, but fail to disclose a counter for counting the number of times that an audiovisual record is chosen in said list, said module comparing this number with a predetermined threshold so as to perform interpretation of user's answers and enable selection of downloadable audiovisual records.

Examiner takes official notice that it is notoriously well known in the art to update databases of content made available to users based upon the popularity of said content. For example, in many video on demand systems, the movies that are made most readily available, such as downloading to a user's home system, or transfer to a high speed memory, is determined by the number of times a movie is requested by users. Said titles have to be requested at least a certain number of times before being considered "popular" enough to warrant transfer.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin, Moskowitz, and Wilder to include a

counter for counting the number of times that an audiovisual record is chosen in said list, said module comparing this number with a predetermined threshold so as to perform interpretation of user's answers and enable selection of downloadable audiovisual records, for the benefit of downloading only the most popular records into the limited amount of space available in the local database.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin, Moskowitz, and Wilder as applied to claim 4 above, and further in view of Kalis et al. (6,212,138, of record) [Kalis].

Regarding claim 6, Martin, Moskowitz, and Wilder disclose the system of claim 4, wherein the host server (Martin, fig. 1, central manager 11) sends commands which program the reproduction system (Martin, fig. 1, jukebox 13) remotely (col. 5, lines 60-63 and col. 6, lines 48-54), but fail to disclose sending orders which are memorized by the reproduction system and used to play particular songs at particular moments.

In an analogous art, Kalis teaches programming a jukebox to play particular songs at particular moments (col. 10, lines 30-64), advantageously providing for a more flexible jukebox.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin, Moskowitz, and Wilder to include programming the reproduction system to play particular songs at particular

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moments, as taught by Kalis, for the benefit of providing a more flexible audiovisual reproduction system.

Conclusion

5. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DS

Dominic Saltarelli
Patent Examiner
Art Unit 2611



HAITRAN
PRIMARY EXAMINER